

SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT  
PURSUANT TO SECTION 13 OR 15 (d) OF  
THE SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported): January 9, 2001

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ATLANTIC TECHNOLOGY VENTURES, INC.  
(Exact name of registrant as specified in its charter)

Delaware	0-27282	36-3898269
(State or other jurisdiction of incorporation or organization)	(Commission file number)	(I.R.S. employer identification no.)

150 Broadway	
Suite 1009	10038
New York, New York	(Zip code)
(Address of principal executive offices)	

Registrant's telephone number, including area code: (212) 267-2503

Item 5. Other Events.

As described below, Atlantic Technology Ventures, Inc. ("Atlantic") and BH Capital Investments, L.P. and Excalibur Limited Partnership (collectively, the "Investors") have renegotiated the terms of the investment by the Investors in shares of Atlantic's Series B convertible preferred stock. Atlantic believes that the revised terms address concerns raised by Atlantic stockholders and the Nasdaq Stock Market.

On September 28, 2000, the Investors purchased from Atlantic, for a purchase price of \$2 million, 689,656 shares of Atlantic's Series B convertible preferred stock and warrants to purchase 134,000 shares of Atlantic's common stock. (For a description of this transaction and a copy of the related documents, including the convertible preferred stock and warrants purchase agreement (the "Purchase Agreement"), see Atlantic's Quarterly Report on Form 10-QSB for the quarter ended September 30, 2000.)

On December 4, 2000, Atlantic and the Investors entered into a stock repurchase agreement (the "Stock Repurchase Agreement") providing for Atlantic's repurchase of 482,760 shares of Series B preferred stock. (The Stock Repurchase Agreement is described in a Current Report on Form 8-K filed with the SEC on December 11, 2000, and a copy of the Stock Repurchase Agreement is attached as Exhibit 10.1 to that Current Report on Form 8-K.)

In the Repurchase Agreement, the Investors granted to Atlantic an option to repurchase on terms specified in the Stock Repurchase Agreement the remaining 206,898 shares of Series B preferred stock held by the Investors. (On December 28, 2000, Atlantic and the Investors amended the Stock Purchase Agreement by extending from January 2, 2001, to January 9, 2001, the expiration date of this option, as reported on Form 8-K filed with the SEC on December 29, 2000.) Atlantic elected to not exercise this option; instead, by means of amendments dated January 9, 2001, and January 19, 2001, to the Purchase Agreement, Atlantic and the Investors renegotiated the terms of the Investors' remaining investment in Atlantic.

The principal renegotiated terms are as follows:

o the Series B certificate of designations was amended as follows:

(1) the "Floor Price" was lowered from \$1.00 to \$0.50, but the definition was also revised to remove all of the various grounds

for calculating the Conversion Price without considering the Floor Price;

- (2) the definition of "Conversion Price" was revised to lower the fixed-price element from \$3.00 to \$1.00;
- (3) Atlantic is required to redeem on March 28, 2002, all outstanding shares of Series B preferred stock for (A) 125% of the original issue price per share or (B) the market price of the shares of common stock into which they are convertible, whichever is greater (the "Redemption Price");

- (4) Atlantic may at any time redeem all outstanding shares of Series B preferred stock for the Redemption Price; and
  - (5) even if Atlantic is delisted from the Nasdaq Stock Market, any cap on the number of shares that could without stockholder approval be issued upon conversion of shares of Series B preferred stock will remain in place.
- o Atlantic is no longer required to seek stockholder approval of (1) issuance to the Investors of Conversion Shares and Warrant Shares (as defined in the Purchase Agreement) in excess of the 20% cap imposed by the Nasdaq Marketplace Rules and (2) amendment of the certificate of designations of Atlantic's Series A convertible preferred stock to subordinate the rights of the Series A convertible preferred stock to those of the Series B preferred stock, and so Atlantic is no longer subject to penalties for failure to secure stockholder approval;
  - o the definition of "Repurchase Event" in the Purchase Agreement was amended by adding six additional events:
    - (1) Atlantic fails to sign a binding definitive agreement with Bausch & Lomb on or before January 31, 2001, providing for Atlantic's receipt of \$3,000,000 of cash proceeds from Bausch & Lomb on or before March 7, 2001;
    - (2) Atlantic fails to receive \$3,000,000 of cash proceeds from Bausch & Lomb on or before March 7, 2001;
    - (3) the average closing bid price of Atlantic's common stock for the ten trading days preceding January 31, 2001, does not exceed \$1.00 per share;
    - (4) the average closing bid price of Atlantic's common stock for the ten trading days preceding March 7, 2001 does not exceed \$1.00 per share;
    - (5) Atlantic's common stock ceases to be listed on either the Nasdaq National Market or the Nasdaq SmallCap Market; and
    - (6) receipt by Atlantic, after expiration of the applicable "watch period," of a Staff Determination (as defined in Rule 4815 of the Nasdaq Marketplace Rules) to limit or prohibit the continued listing of Atlantic's securities on the Nasdaq SmallCap Market, it being understood that (A) this Repurchase Event will not be affected by any right Atlantic may have to request a hearing or pursue other remedies against Nasdaq, and (B) excluded from the scope of this Repurchase Agreement is any Staff Determination received by Atlantic that was directly prompted by the express terms of any of the Purchase Agreement or any document contemplated therein;
  - o the fixed exercise price of the warrants issued to the Investors to purchase 134,000 shares of Atlantic common stock was lowered from \$3.19 to \$1.00, the market price of Atlantic's common stock at the time of the renegotiation (the

warrants are exercisable at the fixed exercise price or 110% of the market price 180 days after the date of issuance, whichever is lower);

- o Atlantic issued to the Investors warrants to purchase a further 20,000 shares of Atlantic common stock at the same exercise price;

On January 19, 2001, each Investor issued to Atlantic a notice electing to convert 20,690 shares of Series B preferred stock into 118,211 shares of common stock, meaning that the Investors elected to convert an aggregate of 41,380 shares of Series B preferred stock into 236,422 shares of common stock.

Item 7. Financial Statements, Pro Forma Financial Information and Exhibits.

(c) Exhibits.

- 3.1 Amended certificate of designations, references and rights of Series B convertible preferred stock of Atlantic filed on January 9, 2001.
- 3.2 Amended certificate of designations, preferences and rights of Series B convertible preferred stock of Atlantic filed on January 19, 2001.
- 10.1 Amendment No. 2 dated January 9, 2001, to convertible preferred stock and warrants purchase agreement dated September 28, 2000, between Atlantic, BH Capital Investments, L.P. and Excalibur Limited Partnership.
- 10.2 Amendment No. 3 dated January 19, 2001, to convertible preferred stock and warrants purchase agreement dated September 28, 2000, between Atlantic, BH Capital Investments, L.P. and Excalibur Limited Partnership.

#### SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, Atlantic Technology Ventures, Inc. has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Date: January 23, 2001

ATLANTIC TECHNOLOGY VENTURES, INC

By: /s/ Frederic P. Zotos

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Frederic P. Zotos  
President

AMENDED CERTIFICATE OF DESIGNATIONS,  
PREFERENCES AND RIGHTS

OF

SERIES B CONVERTIBLE PREFERRED STOCK

OF

ATLANTIC TECHNOLOGY VENTURES, INC.

Pursuant to Section 151 of the General  
Corporation Law of the State of Delaware

The undersigned officer of Atlantic Technology Ventures, Inc., a Delaware corporation (the "Corporation"), pursuant to the provisions of Section 151 of the General Corporation Law of the State of Delaware, does hereby make this Certificate of Amendment of the Certificate of Designations, Preferences and Rights of Series B Convertible Preferred Stock, originally filed with the office of the Secretary of State of the State of Delaware on September 28, 2000, and amended on November 20, 2000 (as so amended, the "Series B Certificate of Designations"), and does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the Corporation by its Certificate of Incorporation, as amended, originally filed with the office of the Secretary of State of the State of Delaware on May 18, 1993, the Board of Directors of the Corporation duly adopted the following resolutions:

RESOLVED, that the Series B Certificate of Designations is hereby amended as follows:

- (1) by striking out the definition of "Conversion Price" appearing at the end of Section 6(b) of Article II in its entirety and substituting the following:

"Conversion Price" means, as of any Conversion Date or other date of determination, the lower of (y) \$1.00, or (z) ninety percent (90%) of the average of the two (2) lowest Closing Bid Prices on the Principal Market of the Common Stock out of the fifteen (15) Trading Days immediately prior to conversion, which Conversion Price shall be adjusted proportionately for any reorganizations, reclassifications, stock splits, stock dividends, reverse stock splits and similar events; provided, however, that the Conversion Price will be reduced by an additional five percent (5%) if the Common Stock is not listed on either the Nasdaq SmallCap Market or Nasdaq National Market as of such date, and provided further that in no event will the Conversion Price be lower than the Floor Price, if any.

- (2) by striking out the definition of "Market Price" appearing at the end of Section 6(b) of Article II in its entirety and substituting the following:

"Market Price" means the average Closing Bid Price of the Common Stock on the Principal Market for the five (5) Trading Days prior to the date for which the Market Price is to be determined.

- (3) by striking out the definition of "Floor Price" appearing at the end of Section 6(b) of Article II in its entirety and substituting the following:

"Floor Price" means \$0.50 for the conversion of a share of Series B Preferred Stock effected on or before March 28, 2002.

- (4) by adding a new subsection (m) to Section 6 of Article II as follows:

(m) Forced Conversion. So long as a Registration Statement covering the resale of the Common Stock issued or issuable upon conversion of the Series B Preferred Stock is effective (but only for so long as the Corporation is required to maintain the effectiveness of such Registration Statement pursuant to the Registration Rights Agreement dated as of September 28, 2000, between the Corporation and the investors signatory thereto (the "Registration Rights Agreement")), if on any day after the date of this Amended Certificate of Designations (i) for the period of twenty (20) consecutive

Trading Days ending the immediately preceding Trading Day the Closing Bid Price of the Common Stock on the Principal Market has been equal to or greater than \$1.75 per share (as adjusted for stock splits, stock dividends and similar events) and (ii) the average daily trading volume of the Common Stock on the Principal Market over that period of twenty (20) consecutive Trading Days exceeds 50,000 shares (any such day, a "Forced Conversion Trigger Day"), then the holders of the Series B Preferred Stock shall within five (5) days after the Forced Conversion Trigger Day give the Corporation a Conversion Notice pursuant to Section 6(c), which Conversion Notice must specify a date of conversion no later than 10 days after the Forced Conversion Trigger Day. In the event of conversion pursuant to this Section 6(m), the Conversion Price will be \$0.75 (as adjusted for stock splits, stock dividends and similar events). Any conversions pursuant to this Section 8(m) shall be subject to the all other applicable provisions of this Section 6.

- (5) by striking out those provisions of Section 7(c) of Article II appearing prior to Section 7(c)(i) of Article II in their entirety and substituting the following:

(c) Issuances at Less Than the Conversion Price. Upon the issuance or sale by the Corporation, during the period ending March 28, 2002 (the "MFN Period"), of:

- (6) by striking out Section 8 of Article II in its entirety and replacing it with the following new Section 8:

8. Redemption.

(a) Mandatory Redemption.

(i) On March 28, 2002 (the "Maturity Date"), the Corporation shall redeem all outstanding shares of Series B Preferred Stock for cash at a redemption price per share equal to the greater of: (A) 125% of the Series B Original Price per share, plus all accrued but unpaid dividends thereon; or (B) an amount equal to the product of (1) the number of shares of Common Stock then issuable to the holders upon conversion of the Series B Preferred Stock being redeemed (irrespective of the Floor Price) and (2) the Market Price on the date of redemption (the "Redemption Price").

(ii) Within five (5) days after the Maturity Date the Corporation shall pay to each holder of shares of Series B Preferred Stock the Redemption Price for all such holder's shares of Series B Preferred Stock (the "Redemption Amount") in cash by wire transfer of immediately available funds in accordance with such holder's written wire transfer instructions. If the Corporation fails to do so, in addition to any remedy such holder may have under this Certificate of Designations, the Purchase Agreement and the Registration Rights Agreement, such unpaid amount shall bear interest at the rate of 3.0% per month (prorated for partial months) until paid in full. Until the Redemption Amount is paid in full to such holder, the mandatory redemption provided for in this Section 8(a) will not be effective with respect to those shares of Series B Preferred Stock for which the Redemption Price has not been paid in full.

(iii) As a condition to payment of the Redemption Amount to any holder of shares of Series B Preferred Stock, on or before the Maturity Date that holder must surrender to the Corporation at its principal offices any certificates representing such shares (or an affidavit of lost certificate in form and content reasonably satisfactory to the Corporation, but which shall not require the posting of any bond). Upon payment to the holder of the Redemption Price, each such surrendered certificate shall be cancelled and retired.

(b) Optional Redemption.

(i) So long as a Registration Statement covering the resale of the Common Stock issued or issuable upon conversion of the Series B Preferred Stock is effective (but only for so long as the Corporation is required to maintain the effectiveness of such Registration Statement pursuant to the Registration Rights Agreement), the Corporation may at its option at any time redeem for cash all, but not less than all, of the shares of Series B Preferred Stock at the Redemption Price.

(ii) If the Corporation opts to redeem all the shares of Series B Preferred Stock pursuant to this Section 8(b), it must provide written notice to the holders of Series B Preferred Stock (the "Redemption Notice"). The Redemption Notice must specify (A) the date for redemption (the "Redemption Date"), which may not be sooner than seven (7) days after the date of the Redemption Notice, and (B) the number of shares of Series B Preferred Stock to be redeemed from the holder to whom the Redemption Notice is delivered. Each holder of shares of Series B Preferred Stock shall be entitled to convert its shares of Series B Preferred Stock into Common Stock prior to the Redemption Date.

(iii) Within five (5) days after the Redemption Date the Corporation shall pay to each holder of shares of Series B Preferred Stock its entire Redemption Amount in cash by wire transfer of immediately available funds in accordance with such holder's written wire transfer instructions. If it fails to do so, (A) the option redemption provided for in this Section 8(b) will not be effective with respect to those shares of Series B Preferred Stock for which the Redemption Price has not been paid in full, and (B) that holder may continue to convert its shares of Series B Preferred Stock as provided in Section 6.

(iv) As a condition to payment of the Redemption Amount to any holder of shares of Series B Preferred Stock, on or before the Redemption Date, that holder must

surrender to the Corporation at its principal offices any certificates representing such shares (or an affidavit of lost certificate in form and content reasonably satisfactory to the Corporation, but which shall not require the posting of any bond). Upon payment to the holder of the Redemption Price, each such surrendered certificate shall be cancelled and retired.

This Amended Certificate of Designations of the Corporation has been duly adopted in accordance with Section 151 of the General Corporation Law of the State of Delaware.

The undersigned is signing this Amended Certificate of Designations on behalf of the Corporation on January 9, 2001.

/s/ Frederic P. Zotos

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Frederic P. Zotos  
President



AMENDED CERTIFICATE OF DESIGNATIONS,  
PREFERENCES AND RIGHTS  
OF  
SERIES B CONVERTIBLE PREFERRED STOCK  
OF

ATLANTIC TECHNOLOGY VENTURES, INC.

Pursuant to Section 151 of the General  
Corporation Law of the State of Delaware

The undersigned officer of Atlantic Technology Ventures, Inc., a Delaware corporation (the "Corporation"), pursuant to the provisions of Section 151 of the General Corporation Law of the State of Delaware, does hereby make this Certificate of Amendment of the Certificate of Designations, Preferences and Rights of Series B Convertible Preferred Stock, originally filed with the office of the Secretary of State of the State of Delaware on September 28, 2000, and amended on November 20, 2000, and January 9, 2001 (as so amended, the "Series B Certificate of Designations"), and does hereby state and certify that pursuant to the authority expressly vested in the Board of Directors of the Corporation by its Certificate of Incorporation, as amended, originally filed with the office of the Secretary of State of the State of Delaware on May 18, 1993, the Board of Directors of the Corporation duly adopted the following resolutions:

RESOLVED, that the Series B Certificate of Designations is hereby amended as follows:

- (1) by inserting prior to clause (ii) of Section 6(1) of Article II the word "or";
- (2) by inserting in clause (ii) of Section 6(1) of Article II, after the words "that such approval is not required" and before the following comma, the words "for a reason other than the Corporation's no longer being listed on the Nasdaq Stock Market at such time"; and
- (3) by deleting after (ii) of Section 6(1) of Article II the words ", or (iii) is no longer listed on the Nasdaq Stock Market at such time".

This Amended Certificate of Designations of the Corporation has been duly adopted in accordance with Section 151 of the General Corporation Law of the State of Delaware.

The undersigned is signing this Amended Certificate of Designations on behalf of the Corporation on January 19, 2001.

/s/ Frederic P. Zotos

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Frederic P. Zotos  
President

AMENDMENT NO. 2  
to  
CONVERTIBLE PREFERRED STOCK AND WARRANTS PURCHASE AGREEMENT  
between  
Atlantic Technology Ventures, Inc.  
and  
the Investors Signatory Hereto

THIS AMENDMENT NO. 2 TO CONVERTIBLE PREFERRED STOCK AND WARRANTS PURCHASE AGREEMENT is entered into effective as of January 9, 2001 (the "Amendment"), between the Investors signatory hereto (each an "Investor" and together the "Investors"), and Atlantic Technology Ventures, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Company").

WHEREAS, the parties entered into that certain Convertible Preferred Stock and Warrants Purchase Agreement dated September 28, 2000, as amended on October 31, 2000 (the "Purchase Agreement"), and desire to amend certain terms of the Purchase Agreement as provided herein;

WHEREAS, the parties entered into that certain Stock Repurchase Agreement dated December 4, 2000 (the "Repurchase Agreement"), which provided for, among other things, an option in favor of the Company to repurchase the remaining shares of Series B Preferred Stock held by the Investors, which option was extended by letter agreement dated December 28, 2000 (the "Repurchase Option");

WHEREAS, the parties desire to terminate the Repurchase Option as provided herein;

NOW, THEREFORE, in consideration of the mutual promises herein, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties hereto agree as follows:

The Purchase Agreement and Repurchase Agreement shall be amended as follows:

1. Defined Terms. Terms that are used herein with initial capital letters and are not otherwise defined herein will have the meanings given to them in the Purchase Agreement. The definitions of the following terms contained in Article I of the Purchase Agreement are hereby amended and restated in their entirety as follows:

"Initial Warrants" shall mean the Warrants issued on the Initial Closing Date, as amended to reset the exercise price to equal the lower of (a) \$1.00 or (b) 110% of the closing bid price of the Common Stock on the last trading date immediately preceding the 180th day following the date hereof.

The definition of "Repurchase Event" shall be amended by deleting item (8) thereof in its entirety and replacing it with the notation: "[Intentionally Deleted]" and by adding the following four additional events, each of which shall individually constitute a Repurchase Event:

(10) The Company fails to sign a binding definitive agreement with Bausch & Lomb on or before January 31, 2001, providing for the Company's receipt of \$3,000,000 of cash proceeds from Bausch & Lomb on or before March 7, 2001;

(11) The Company fails to receive \$3,000,000 of cash proceeds from Bausch & Lomb on or before March 7, 2001;

(12) The average closing bid price of the Company's common stock for the ten (10) trading days preceding January 31, 2001 does not exceed \$1.00 per share;

(13) The average closing bid price of the Company's common stock for the ten (10) trading days preceding March 7, 2001 does not exceed \$1.00 per share;

(14) The Company's common stock ceases to be listed on either the Nasdaq National Market or the Nasdaq SmallCap Market.

"Warrants" shall mean the Warrants substantially in the form of Exhibit

B to be issued to the Investors hereunder, as amended to reset the exercise price to equal the lower of (a) \$1.00 or (b) 110% of the closing bid price of the Common Stock on the last trading date immediately preceding the 180th day following the date hereof.

2. Repurchase Amount. Section 2.4 of the Purchase Agreement is hereby amended to add the following sentence at the end of Section 2.4:

"The Repurchase Amount for any repurchase of shares effected hereunder shall include the amount of any accrued but unpaid dividends with respect to those shares."

3. Removal of Shareholder Approval Requirement. The provisions of Section 6.13 of the Purchase Agreement are hereby deleted in their entirety and replaced with the following notation: "[Intentionally Deleted]".

4. Warrant Repricing. The Company hereby agrees and acknowledges that the exercise price of the Initial Warrants is hereby amended to equal the lower of (a) \$1.00 or (b) 110% of the closing bid price of the Common Stock on the last trading date immediately preceding the 180th day following the date hereof. The Company agrees that it will take such actions as may be reasonably requested by the Investors to evidence or give effect to this repricing.

5. Termination of Repurchase Option. Effective immediately upon execution of this Amendment, the Repurchase Option shall terminate.

6. Amendment to Series B Certificate of Designation. Simultaneous with the execution of this Amendment, the Company shall execute and file with the Delaware Department of State an Amended Series B Certificate of Designation in substantially the form attached hereto as Exhibit A.

7. Amendment to the Registration Rights Agreement to Remove Certain Penalties. Simultaneous with the execution of this Amendment, the parties shall enter into an amendment to the Registration Rights Agreement in substantially the form attached hereto as Exhibit B.

8. New Warrants. The Company agrees to issue to the Investors effective on the date hereof additional warrants to purchase an aggregate of 20,000 shares of the Company's Common Stock at an exercise equal the lower of (a) \$1.00 or (b) 110% of the closing bid price of the Common Stock on the last trading date immediately preceding the 180th day following the date hereof. The shares issuable upon exercise of the new warrants shall have all of the rights as set forth in the Registration Rights Agreement dated September 28, 2000 between the Company and the Investors, except for the mandatory registration rights set forth in Section 2.a of that agreement.

9. Company Representations. The Company represents and warrants to the Investors that it has all requisite corporate power and corporate authority to enter into and perform its obligations under this Amendment and the transactions contemplated hereby, including without limitation the repricing of the Warrants. Subject to the continued accuracy of the Investors' representations in Article III of the Purchase Agreement, the issuance and sale of the Warrants, as amended hereby, will not require registration under the Securities Act and/or any applicable state securities laws. When issued and paid for in accordance with the Warrants, the Warrant Shares will be duly and validly issued, fully paid and nonassessable.

Except as specifically amended or modified by this Amendment, the terms and conditions of the Purchase Agreement shall remain in effect in every particular as set forth in the Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 2 to Convertible Preferred Stock and Warrants Purchase Agreement to be executed by the undersigned, thereunto duly authorized, as of the date first set forth above.

Atlantic Technology Ventures, Inc.

By: /s/ Frederic P. Zotos  
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Name: Frederic P. Zotos  
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Title: President  
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Address: 175 Bloor Street East  
South Tower, 7th Floor  
Toronto, Ontario, Canada M4W 3R8  
Fax: 416-929-5314

Investor: BH Capital Investments, L.P.  
By: HB and Co., Inc., its General  
Partner  
By: /s/ Henry Brachfeld  
-----  
Name: Henry Brachfeld, President

Address: 33 Prince Arthur Avenue  
Toronto, Ontario, Canada M5R 1 B2  
Fax: 416-964-8868

Investor: Excalibur Limited Partnership  
By: Excalibur Capital Management, Inc.  
  
By: /s/ William Hechter  
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Name: William Hechter, President

AMENDMENT NO. 3  
to  
CONVERTIBLE PREFERRED STOCK AND WARRANTS PURCHASE AGREEMENT  
between  
Atlantic Technology Ventures, Inc.  
and  
the Investors Signatory Hereto

THIS AMENDMENT NO. 3 TO CONVERTIBLE PREFERRED STOCK AND WARRANTS PURCHASE AGREEMENT is entered into effective as of January 19, 2001 (the "Amendment"), between the Investors signatory hereto (each an "Investor" and together the "Investors"), and Atlantic Technology Ventures, Inc., a corporation organized and existing under the laws of the State of Delaware (the "Company").

WHEREAS, the parties entered into that certain Convertible Preferred Stock and Warrants Purchase Agreement dated September 28, 2000, as amended on October 31, 2000 and January 9, 2001 (the "Purchase Agreement"; terms that are used herein with initial capital letters and are not otherwise defined herein will have the meanings given to them in the Purchase Agreement), and desire to amend certain terms of the Purchase Agreement as provided herein;

NOW, THEREFORE, in consideration of the mutual promises herein, and other good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, the parties hereto agree as follows:

1. Definition of Repurchase Event. The definition of "Repurchase Event" contained in Article I of the Purchase Agreement is hereby amended by (A) deleting the period at the end of clause (14) and replacing it with "; and" and (B) by adding thereafter the following new clause (15):

(15) Receipt by the Company, after expiration of the applicable "watch period," of a Staff Determination (as defined in Rule 4815 of the Nasdaq Marketplace Rules) to limit or prohibit the continued listing of the Company's securities on the Nasdaq SmallCap Market, it being understood that (A) this Repurchase Event will not be affected by any right the Company may have to request a hearing or pursue other remedies against Nasdaq, and (B) excluded from the scope of this Repurchase Agreement is any Staff Determination received by the Company that was directly prompted by the express terms of any of the Transaction Documents.

2. Amendment to Series B Certificate of Designation. Simultaneous with the execution of this Amendment, the Company is hereby authorized to execute and file with the Delaware Department of State an Amended Series B Certificate of Designation in substantially the form attached hereto as Exhibit A.

3. Company Representations. The Company represents and warrants to the Investors that it has all requisite corporate power and corporate authority to enter into and perform its obligations under this Amendment and the transactions contemplated hereby.

Except as specifically amended or modified by this Amendment, the terms and conditions of the Purchase Agreement shall remain in effect in every particular as set forth in the Purchase Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 3 to Convertible Preferred Stock and Warrants Purchase Agreement to be executed by the undersigned, thereunto duly authorized, as of the date first set forth above.

Atlantic Technology Ventures, Inc.

By: /s/ Frederic P. Zotos

Name: Frederic P. Zotos

Title: President

Address: 175 Bloor Street East

Investor: BH Capital Investments, L.P.

South Tower, 7th Floor  
Toronto, Ontario, Canada M4W 3R8  
Fax: 416-929-5314

Address: 33 Prince Arthur Avenue  
Toronto, Ontario, Canada M5R 1 B2  
Fax: 416-964-8868

By: HB and Co., Inc., its General  
Partner  
By: /s/ Henry Brachfeld  
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Name: Henry Brachfeld, President

Investor: Excalibur Limited Partnership  
By: Excalibur Capital Management, Inc.

By: /s/ William Hechter  
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Name: William Hechter, President